

## NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.A.4.

**SUBJECT:** Proposed Amendments to chs. NR 406, 407 and 410 implementing s. 285.60(6)(b), Stats., to exempt certain minor air pollution sources from construction and operation permit requirements (AM-09-06).

**FOR:** April 2006 BOARD MEETING

**TO BE PRESENTED BY:** Jeff Hanson, Permits and Stationary Source Modeling Section Chief

**SUMMARY:** The proposed rule changes contain the following three elements:

1. Exemption from operation and construction permitting requirements for facilities which have actual emissions of each criteria pollutants (other than lead) of less than 10 tons/year, and which are not subject to additional control requirements such as Federal hazardous air pollutant standards.
2. Exemption from construction permitting requirements of any construction/modification type of project at a facility where the project will have actual emissions of criteria pollutants (other than lead) of less than 10 tons/year, and which is not subject to additional control requirements such as Federal hazardous air pollutant standards.
3. Add an \$800 exemption review fee for all projects which claim exemption under item 2.

These changes are being proposed to meet statutory requirements of s. 285.60(6)(b), Stats., (contained in 2003 Wisconsin Act 118), which require the Department to exempt sources from permitting requirements which do not represent a significant hazard to public health, safety, welfare or to the environment.

The Board has not dealt with the general issue of permit exemptions since the early 1990's when the Federal operation permit program was established. At that time, the existing construction permit exemptions were included as operation permit exemptions.

**RECOMMENDATION:** The Board approve AM-09-06 for public hearing.

### LIST OF ATTACHED MATERIALS:

|  |   |   |          |
|--|---|---|----------|
| No <input type="checkbox"/>            | Fiscal Estimate Required                              | Yes <input checked="" type="checkbox"/> | Attached |
| No <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes <input type="checkbox"/>            | Attached |
| No <input type="checkbox"/>            | Background Memo                                       | Yes <input checked="" type="checkbox"/> | Attached |

### APPROVED:

\_\_\_\_\_/S/  
Acting Bureau Director, Jon Henrich for Kevin Kessler

\_\_\_\_\_3/24/2006  
Date

\_\_\_\_\_/S/  
Administrator, Al Shea

\_\_\_\_\_3/27/2006  
Date

\_\_\_\_\_/S/  
Secretary, Scott Hassett

\_\_\_\_\_3/27/2006  
Date

cc: Amy Lemberger - AD/5  
Carol Turner - LS/5

K. Kessler - AM/7  
R. Eckdale - AM/7 (6)

Steve Dunn - AM/7 (6)  
Marcia Penner - LS/5

Caroline Garber - AM/7

DATE: March 27, 2006

FILE REF: 4533

TO: Natural Resources Board Members

FROM: Scott Hassett, Secretary

SUBJECT: Background Memo on Public Hearing Authorization for Order # AM-09-06, pertaining to the revisions of chs. NR 406, 407 and 410, Wis. Adm. Code, for expanding the current exemptions from air permit requirements.

*1. Why is this rule being proposed?*

*a. What event or action triggered the proposal?*

In 2003, s. 285.60(6)(b), Stats., was created as part of 2003 Wisconsin Act 118. This law requires the Department to exempt minor sources from the requirement to obtain air permits if emissions from the source do not present a significant hazard to public health, safety, welfare or to the environment. Thus, the Department is proposing the changes to chs. NR 406, 407 and 410 to meet this statutory requirement.

*b. What issues are addressed by this rule?*

The Department has examined current permit exemptions in light of the requirements of s. 285.60(6)(b), Stats., and believes that an expansion of those exemptions is required under the statute. Therefore, the Department is proposing exemptions at emission levels which it believes do not represent a significant hazard to public health, safety, welfare or to the environment.

*2. Summary of the Rule*

The rule proposal provides exemptions from construction and operation permitting requirements for facilities which have less than 10 tons/year of actual emissions of criteria pollutants (particulate matter, sulfur dioxide, nitrogen oxides, carbon monoxide and volatile organic compounds), and which are not subject to federal New Source Performance Standards or federal air pollution requirements for hazardous air pollutants. This exemption needs to be requested by the facility owner or operator.

For facilities with higher levels of emissions, projects involving construction, modification, reconstruction or replacement which have less than 10 ton/year actual emissions of criteria pollutants and which meet the other exemption criteria would be exempt from obtaining a construction permit prior to undertaking the project. However, the facility owner or operator would still need to apply for an operation permit revision for the project. The proposal includes an \$800 fee for each construction permit exemption to defray engineering review costs incurred by the Department when evaluating whether a source qualifies for the exemption.

Lastly, two additional activities are proposed to be added to the current list of activities which are excluded from being a modification. These activities are certain changes to process lines emitting volatile organic compounds and conversion of small boilers to use an alternate clean fuel.

3. *How does this proposal affect existing policy?*

This proposal does not affect existing policy.

4. *Has the Board dealt with these issues before? If so, when and why?*

The Board has dealt broadly with the issue of permit exemptions back in the early 1990's when the operation permit program was established. More recently, additional exemptions from construction permits were added as part of the changes adopted by the Board to the new source review program in February 2006.

5. *Who will be impacted by the proposed rule? How will they be impacted?*

This proposal will primarily impact small sources of air pollution (sources which emit under 10 TPY of each criteria air pollutants, except lead which has a 10 lb/month limitation). The proposal may also exempt larger sources of air pollution which undertake construction/modification type projects which have low emissions (less than 10 TPY) and which are not subject to any other additional federal requirements.

6. *Information on environmental analysis.*

Under s. NR 150.03(3), Wis. Adm. Code, an environmental analysis would not be needed because this proposal is considered a Type III Action. A Type III Action is one that normally does not have the potential to cause significant environmental effects, normally does not significantly affect energy usage and normally does not involve unresolved conflicts in the use of available resources.

7. *Small business analysis.*

The proposed rule will affect a number of small businesses. The proposal will exempt a number of small businesses from obtaining air pollution permits. This will, in general, lower their compliance costs and reporting requirements.

8. *Initial regulatory flexibility analysis.*

*A.1. Describe the compliance and or reporting requirements imposed on small business.*

The only addition to current compliance and reporting requirements is a requirement that any source which claims to be exempt from all permitting requirements file a claim with the Department that the facility is exempt from permitting requirements.

*A.2. Can these compliance and/or reporting requirements be made less stringent for small business? Explain.*

No. The permit exemption claim has been eliminated for all businesses which do not report to the air emission inventory.

*B.1. Describe the schedules or deadlines for compliance or reporting imposed on small business.*

The exemption claim would be filed one time at a date to be determined by the Department. The actual date depends on the effective date of the rule.

*B.2. Can these schedules or deadlines be made less stringent for small business?*

No. The permit exemption claim has been eliminated for all businesses which do not report to the Air Emission Inventory.

*C. Can the compliance or reporting requirements for small business be consolidated or simplified? Explain.*

The proposed rule does not change compliance requirements for any source. The proposed rule only eliminates the requirement to obtain an air pollution permit for small sources. For projects exempt from construction permitting at larger sources, the rule only eliminates the need for the construction permit and does not change or add any other requirements.

*D. Can performance standards be established for small businesses in lieu of design or operational standards?*

The proposed rule change does not create additional design or operational standards.

*E. Can small business be exempted from any or all requirements of the rule? Explain.*

The proposed rule is adding additional exemptions which may apply to some small businesses.

*F. Initial regulatory Flexibility Analysis*

*1. Describe the type of small business that will be affected by the rule.*

Small businesses which have very low emissions or which add additional equipment with very low emissions will be affected. Examples are coating facilities and small printers.

*2. Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule.*

The proposed rule change does not create any significant additional reporting or bookkeeping requirements.

*3. Describe the type of professional skills necessary for compliance with the rule.*

The proposed rule change does not create an additional need for professional skills.

## Fiscal Estimate — 2003 Session

|  |                                       |             |   |
|--|---------------------------------------|-------------|---|
| <input checked="" type="checkbox"/> Original | <input type="checkbox"/> Updated      | LRB Number  | Amendment Number if Applicable                    |
| <input type="checkbox"/> Corrected           | <input type="checkbox"/> Supplemental | Bill Number | Administrative Rule Number<br>NR 406, 407 and 410 |

### Subject

Proposed changes of chs. NR 406, 407 and 410 to exempt certain sources from permit requirements.

### Fiscal Effect

State: ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation  
or affects a sum sufficient appropriation.

- |  |  |
|--|--|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues            |
| <input type="checkbox"/> Decrease Existing Appropriation | <input checked="" type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation        |  |

☐ Increase Costs — May be possible to absorb  
within agency's budget.

☐ Yes ☐ No

☒ Decrease Costs

Local: ☐ No Local Government Costs

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory            | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input checked="" type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☒ Cities

☒ Counties ☐ Others

☒ School Districts ☐ WTCS Districts

### Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

### Affected Chapter 20 Appropriations

s. 20.370(2)(ci)

### Assumptions Used in Arriving at Fiscal Estimate

The proposed rules allow for small emission sources to be exempt from all permitting requirements and for larger sources to be exempt from construction permitting requirements. The elimination of all permit requirements for small sources will reduce Department costs for writing permits and for storing and reviewing compliance certification reports. The elimination of the permitting requirement for small sources should have little or no effect on program revenue.

The construction permit exemption is estimated to allow for 40 projects per year that currently require a construction permit to be exempt from that requirement. However, these projects will still require the Department to issue an operation permit or to revise an existing operation permit. Based on an estimated loss of 40 construction permits per year, and an average cost per construction permit of \$6,000, the revenue loss would be \$240,000/year. With the proposed \$800 exemption fee, the gain in fees would be \$32,000/year (40 exemptions at \$800 per exemption) for a net loss of funds of \$208,000/year.

Any reduced workload for permit writing will likely be shifted to ensuring the exempted sources are in compliance with Air requirements.

### Long-Range Fiscal Implications

|                      |               |                                 |
|----------------------|---------------|---------------------------------|
| Prepared By:         | Telephone No. | Agency                          |
| Joseph Polasek       | 266-2794      | Department of Natural Resources |
| Authorized Signature | Telephone No. | Date (mm/dd/ccyy)               |
| /S/                  | 266-2794      | 03-23-06                        |

## Fiscal Estimate Worksheet — 2003 Session

Detailed Estimate of Annual Fiscal Effect

|   |                               |   |
|---|-------------------------------|---|
| <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated<br><br><input type="checkbox"/> Corrected <input type="checkbox"/> Supplemental | LRB Number<br><br>Bill Number | Amendment Number if Applicable<br><br>Administrative Rule Number<br>Nr 406, 407 and 410 |
|---|-------------------------------|---|

**Subject**

Proposed changes to chs. NR 406, 407 and 410 to exempt certain sources from permit requirements.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None

| Annualized Costs:                        |   | Annualized Fiscal Impact on State Funds from: |                   |
|--|---|---|-------------------|
|  |   | Increased Costs                               | Decreased Costs   |
| <b>A. State Costs by Category</b>        |   |   |                   |
| State Operations — Salaries and Fringes  |   | \$  | \$ -              |
| (FTE Position Changes)                   |   | ( FTE )                                       | ( - FTE )         |
| State Operations — Other Costs           |   |   | -                 |
| Local Assistance                         |   |   | -                 |
| Aids to Individuals or Organizations     |   |   | -                 |
| <b>Total State Costs by Category</b>     |   | \$  | \$ -              |
| <b>B. State Costs by Source of Funds</b> |   |   |                   |
| GPR                                      |   | \$  | \$ -              |
| FED                                      |   |   | -                 |
| PRO/PRS                                  |   |   | -                 |
| SEG/SEG-S                                |   |   | -                 |
| State Revenues                           | Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | Increased Revenue                             | Decreased Revenue |
| GPR Taxes                                |   | \$  | \$ -              |
| GPR Earned                               |   |   | -                 |
| FED                                      |   |   | -                 |
| PRO/PRS                                  |   | 32,000  | - 240,000         |
| SEG/SEG-S                                |   |   | -                 |
| <b>Total State Revenues</b>              |   | \$  | \$ -              |

### Net Annualized Fiscal Impact

|                        | <u>State</u> | <u>Local</u> |
|------------------------|--------------|--------------|
| Net Change in Costs    | \$           | \$           |
| Net Change in Revenues | \$ -208,000  | \$           |

  

|                      |               |                                 |
|----------------------|---------------|---------------------------------|
| Prepared By:         | Telephone No. | Agency                          |
| Joe Polasek          | 266-2794      | Department of Natural Resources |
| Authorized Signature | Telephone No. | Date (mm/dd/ccyy)               |
| /S/                  | 266-2794      | 03-23-06                        |

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
RENUMBERING, AMENDING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order is to **renumber** NR 406.02(1) and NR 406.04(4)(h), **amend** NR 410.03(1)(d), and to **create** NR 406.02(1), 406.04(1)(zh)and (zi), 406.04(4)(h) and (i), 407.03(1)(za) and 410.03(1)(f) relating to air pollution permit exemptions and air pollution permit exemption fees, and affecting small business.

AM-09-06

Analysis Prepared by the Department of Natural Resources

**Statute interpreted:** s. 285.60(6), Stats. The State Implementation Plan developed under s. 285.11(6), Stats., is revised.

**Statutory authority:** ss. 285.11(1) and (6) and 285.60(6), Stats.

**Explanation of agency authority:** The Department has had the authority under s. 285.60(6)(a), Stats., to exempt stationary sources from permitting requirements if potential emissions do not present a significant hazard to public health, safety or welfare or to the environment. In 2003, s. 285.60(6)(b), Stats., was created and requires the Department to exempt minor sources from the requirement to obtain air permits if emissions from the source do not present a significant hazard to public health, safety or welfare or to the environment.

**Related statute or rule:** Chapters NR 406 and 407, Wis. Adm. Code.

**Plain language analysis:** The rule proposal provides for sources that have less than 10 tons/year of actual emissions of criteria pollutants (particulate matter, sulfur dioxide, nitrogen oxides, carbon monoxide and volatile organic compounds), and which are not subject to Federal air pollution requirements for hazardous air pollutants or new source performance standards, to be exempt from all permitting requirements.

For sources with emissions above these thresholds, projects undertaken at the facility that will meet the aforementioned criteria would be exempt from obtaining a construction permit prior to undertaking the project. The facility owner/operator would still need to apply for an operation permit for the project, but construction of the sources included in the project would be allowed. The proposal includes an \$800 fee for each construction permit exemption to defray engineering review costs incurred by the Department when evaluating whether a source qualifies for the exemption.

**Summary of, and comparison with, existing or proposed federal regulation:** A comparable federal regulation does not exist. The Federal Clean Air Act requires States to have a minor source construction permit program which allows for preconstruction review of new and modified sources of air pollution. The purpose of this program is to ensure that ambient air quality standards are protected.

The Clean Air Act also requires that each state manage an operation permit program for major sources of air pollution. The criteria for being a major source of air pollution is 100 tons/year of criteria pollutant emissions or being defined as a major Federal hazardous air pollution source.

**Comparison with rules in adjacent states:** All the states within EPA Region 5 manage a minor source construction and operation permit program. Some of these programs appear to be more “stringent” than Wisconsin’s program, while others appear to be less stringent. Comparisons between programs are difficult due to the varying ways sources may be exempt and how programs are funded. Based on a review done by the Air Management program, it appears that Wisconsin’s program is in the middle of the pack for Region V States.

Wisconsin: Chapters NR 406 and 407 establish two types of exemptions from construction and operation permitting requirements. The first of these, specific exemptions, apply to specific processes such as small boilers, crematoriums and small coating operations. The second type, general exemptions, are based on the maximum source emissions and whether the source is subject to any Federal emission control requirements.

Minnesota: Exemptions are based on the potential to emit for the facility. These levels are significantly higher than the current and proposed exemption levels in Wisconsin.

Michigan: Exemptions are mainly based on specific exemptions for certain processes/emissions sources. Examples include small boilers and small printing and coating operations. There is also an exemption for facilities with low emissions with a threshold significantly lower than that being proposed in this Rule package.

Illinois: Exemptions are based on specific exemptions for certain processes/emission sources. Examples include small boilers and small printing and coating operations. In general, the exemptions do not appear to be as broad as those currently available in Wisconsin or those being proposed in this Rule package.

Iowa: Exemptions are based on a limited number of identified processes and operations that have very low emission rates (lower than in this rule proposal).

**Summary of factual data and analytical methodologies:** Rule revisions to chs. NR 406, 407 and 410 are in response to 2003 Wisconsin Act 118. Section 285.60(6)(b), Stats., requires that small sources of emissions that do not present a significant hazard to public health, safety or welfare or to the environment be exempted from permit requirements.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** The proposed rule revisions will require Department resources to implement. The Department is proposing an addition to its construction permit fee schedule contained within chapter NR 410 to fund this work effort. A proposed fee of \$800 is included and is based upon the existing fee structure for Department review of another existing construction permit exemption. Businesses that choose to take advantage of the regulatory flexibility will have reduced permit fees in the long run because many projects that had previously required a construction permit will not be reviewed under that program under the proposed rule revisions.

**Anticipated costs incurred by private sector:** Although the proposed rule revision requires a fee of \$800 for each construction permit exemption evaluated under these rules, this cost is less than that which would be incurred if the source were required to obtain a construction permit.

**Effect on small business:** These proposed rule revisions should lessen compliance costs for many small businesses.

**Agency contact person: (including email and telephone):**

Steven Dunn: (608) 267-0566 [steven.dunn@dnr.state.wi.us](mailto:steven.dunn@dnr.state.wi.us)

Jeffrey Hanson: (608) 266-6876 [jeffrey.hanson@dnr.state.wi.us](mailto:jeffrey.hanson@dnr.state.wi.us)

**Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings or by regular mail, fax or email to:

Steven Dunn

Department of Natural Resources

Bureau of Air Management

PO Box 7921

Madison WI 53707

Fax: (608) 267-0560

[Steven.dunn@dnr.state.wi.us](mailto:Steven.dunn@dnr.state.wi.us)

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

Hearing dates and comment submission deadline are to be determined.



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SECTION 1. NR 406.02(1) is renumbered NR 406.02(1m).

SECTION 2. NR 406.02(1) is created to read:

NR 406.02(1) “Clean fuel” means distillate oil, as defined in s. NR 440.205(2)(h), with a sulfur content less than 0.05% by weight, natural gas or propane.

SECTION 3. NR 406.04(1)(zh) and (zi) are created to read:

NR 406.04(1)(zh)1. Any construction, modification, replacement or reconstruction of an emissions unit at an existing stationary source which is exempt from the requirement to obtain an operation permit under s. NR 407.03(1)(za), provided the stationary source still qualifies for the exemption under s. NR 407.03(1)(za) after completion of the proposed construction, modification, replacement or reconstruction.

2. Construction of a new facility will be exempt from the requirement to obtain an operation permit under s. NR 407.03(1)(za) after completion of the proposed construction.

(zi) Any emissions unit constructed, modified, replaced or reconstructed at a stationary source which meets all of the following criteria and requirements:

1. The owner or operator of the stationary source has a facility-wide operation permit under ch. NR 407 or has submitted a timely and complete application for a facility-wide operation permit.

2. Actual emissions from all of the constructed, modified, replaced or reconstructed emissions units do not exceed any of the following levels:

a. 1,666 pounds in any month averaged over any consecutive 12-month period for each of the following air contaminants: particulate matter, nitrogen oxide, sulfur dioxide, PM<sub>10</sub>, carbon monoxide and volatile organic compounds.

b. 10 pounds in any month averaged over any consecutive 12-month period for lead.

3. None of the emission units constructed, modified, replaced or reconstructed requires a BACT or LAER determination under ch. NR 445.

4. None of the emission units constructed, modified, replaced or reconstructed are subject to new permitting requirements under ch. NR 405 or 408.

5. The owner or operator of the stationary source submits to the department a complete application for an operation permit revision, or an updated application for an operation permit, which includes each new, modified, replaced or reconstructed emissions unit, prior to commencing construction, modification, replacement or reconstruction and does all of the following:

a. In the operation permit revision application, or updated operation permit application, proposes monitoring of any control equipment used to limit actual emissions from any emissions unit being constructed, modified, replaced or reconstructed in accordance with the monitoring requirements in s. NR 439.055.

b. Commences monitoring of any control equipment as proposed in subd. 5.a., and maintains any records necessary to demonstrate compliance with any applicable emission limitation, upon startup of any newly constructed, modified, reconstructed or replaced emissions unit.

6. The owner or operator of the source submits to the department a claim of exemption from construction permitting requirements. The exemption claim shall identify the emission units which are being constructed, modified, reconstructed or replaced.

7. Any newly constructed emission unit is not subject to an emission limitation under section 111 or 112 of the Act (42 USC 7411 or 7412). Any modified, reconstructed or replaced emissions unit does not trigger any new emission limitation or other requirement for the emission unit under section 111 or 112 of the Act.

**Note:** The application for an operation permit or operation permit revision required under this section will be evaluated by the department pursuant to the permit approval criteria in ss. 285.63 and 285.64, Stats.

SECTION 4. NR 406.04(4)(h) is renumbered NR 406.04(4)(j)

SECTION 5. NR 406.04(4)(h) and (i) are created to read:

NR 406.04(4)(h) *Change to process lines emitting VOCs.* A change in a method of operation of a process line subject to s. NR 424.03(2)(c) that meets all of the following criteria:

1. The change does not result in annual potential VOC emissions from the process line which exceed the annual potential VOC emissions based on conditions established under s. NR 424.03(2)(c)

2. The change does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412).

**Note:** The permittee shall continue to comply with the conditions established under NR 424.03(2)(c) in its construction or operation permit until the permit is revised.

(i) *Change to use a clean fuel.* A change to an external combustion furnace to allow for the combustion of a clean fuel that meets all of the following requirements:

1. The external combustion furnace has a maximum heat input capacity of no greater than 10 mmBtu/hour if the ability to combust distillate oil is being added and 25 mmBtu/hour if the ability to combust natural gas or propane is being added.

2. The use of the new clean fuel does not cause or exacerbate the exceedance of any ambient air quality standard or increment in ch. NR 404.

3. The change does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412).

SECTION 6. NR 407.03(1)(za) is created to read:

NR 407.03(1)(za) Any facility which meets all of the following criteria and requirements:

1. The actual emissions of each air contaminant from the facility do not exceed any of the following levels:

a. 10 tons in any calendar year for each of the following air contaminants: particulate matter, nitrogen oxide, sulfur dioxide, PM<sub>10</sub>, carbon monoxide and volatile organic compounds.

b. 0.5 tons in any calendar year for lead.

c. Any stack-appropriate thresholds for emissions points in columns (c), (d), (e) and (f) of Table A, B or C of ch. NR 445.

2. The facility is not subject to a standard under section 111 or 112 of the Act (42 USC 7411 or 7412).

3. The owner or operator has submitted to the department an operation permit exemption claim. The claim shall be submitted on department approved forms, to a location designated by the department and by a date specified by the department.

4. The owner or operator conducts monitoring and maintain records sufficient to demonstrate compliance with the requirements of this paragraph, including the calculation of annual facility-wide emissions. These records shall be maintained on site for at least 5 years, unless a longer period is required by statute or rule.

5. If a control device is used to limit actual emissions, the owner or operator uses a compliance monitoring method which is identified in s. NR 439.055

**Note:** The owner or operator is responsible for complying with all applicable requirements in chs. NR 400 to 499.

SECTION 7. NR 410.03(1)(d) is amended to read:

NR 410.03(1)(d) Any person who applies for a construction permit for a direct source shall submit a \$1,350 fee with the application. This fee may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (b) or (f), only the amount not required to cover the fee will be refunded.

SECTION 8. NR 410.03(1)(f) is created to read:

NR 410.03(1)(f) Any person submitting a claim for a construction permit exemption under s. NR 406.04(1)(zi) shall pay a fee of \$800.

SECTION 9. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 10. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)